

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Health Facilities Planning Act is amended by changing Sections 3, 5.3, 5.4, 6.2, 8.5, 10, 11, 12, 12.2, 12.5, 13, and 15 as follows:

(20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

(Section scheduled to be repealed on December 31, 2019)

Sec. 3. Definitions. As used in this Act:

"Health care facilities" means and includes the following facilities, organizations, and related persons:

(1) ~~1.~~ An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act. ~~+~~

(2) ~~2.~~ An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act. ~~+~~

(3) ~~3.~~ Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act. ~~+~~

(A) If a demonstration project under the Nursing Home Care Act applies for a certificate of need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in

effect as of the date of application.

(B) Except as provided in item (A) of this subsection, this Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing Home Care Act.†

(3.5) ~~3.5.~~ Skilled and intermediate care facilities licensed under the ID/DD Community Care Act.†

(A) No permit or exemption is required for a facility licensed under the ID/DD Community Care Act prior to the reduction of the number of beds at a facility. If there is a total reduction of beds at a facility licensed under the ID/DD Community Care Act, this is a discontinuation or closure of the facility. If a facility licensed under the ID/DD Community Care Act reduces the number of beds or discontinues the facility, that facility must notify the Board as provided in Section 14.1 of this Act.

(3.7) ~~3.7.~~ Facilities licensed under the Specialized Mental Health Rehabilitation Act.†

(4) ~~4.~~ Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof.†

(5) ~~5.~~ Kidney disease treatment centers, including a free-standing hemodialysis unit required to be licensed under the End Stage Renal Disease Facility Act.†

(A) This Act does not apply to a dialysis facility that provides only dialysis training, support, and related services to individuals with end stage renal disease who have elected to receive home dialysis.

(B) This Act does not apply to a dialysis unit located in a licensed nursing home that offers or provides dialysis-related services to residents with end stage renal disease who have elected to receive home dialysis within the nursing home.

(C) The Board, however, may require dialysis facilities and licensed nursing homes under items (A) and (B) of this subsection to report statistical information on a quarterly basis to the Board to be used by the Board to conduct analyses on the need for proposed kidney disease treatment centers.

(6) ~~6.~~ An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility. ~~+~~

(7) ~~7.~~ An institution, place, building, or room used for provision of a health care category of service, including, but not limited to, cardiac catheterization and open heart surgery. ~~+~~ ~~and~~

(8) ~~8.~~ An institution, place, building, or room housing ~~used for provision of~~ major medical equipment used in the direct clinical diagnosis or treatment of patients, and

whose project cost is in excess of the capital expenditure minimum.

"Health care facilities" does not include the following entities or facility transactions:

(1) Federally-owned facilities.

(2) Facilities used solely for healing by prayer or spiritual means.

(3) An existing facility located on any campus facility as defined in Section 5-5.8b of the Illinois Public Aid Code, provided that the campus facility encompasses 30 or more contiguous acres and that the new or renovated facility is intended for use by a licensed residential facility.

(4) Facilities licensed under the Supportive Residences Licensing Act or the Assisted Living and Shared Housing Act.

(5) Facilities designated as supportive living facilities that are in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code.

(6) Facilities established and operating under the Alternative Health Care Delivery Act as a children's respite care center alternative health care model demonstration program or as an Alzheimer's Disease Management Center alternative health care model demonstration program.

(7) The closure of an entity or a portion of an entity licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the ID/DD Community Care Act, with the exception of facilities operated by a county or Illinois Veterans Homes, that elect to convert, in whole or in part, to an assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act.

(8) Any change of ownership of a healthcare facility that is licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the ID/DD Community Care Act, with the exception of facilities operated by a county or Illinois Veterans Homes. Changes of ownership of facilities licensed under the Nursing Home Care Act must meet the requirements set forth in Sections 3-101 through 3-119 of the Nursing Home Care Act.

~~This Act shall not apply to the construction of any new facility or the renovation of any existing facility located on any campus facility as defined in Section 5-5.8b of the Illinois Public Aid Code, provided that the campus facility encompasses 30 or more contiguous acres and that the new or renovated facility is intended for use by a licensed residential facility.~~

~~No federally owned facility shall be subject to the provisions of this Act, nor facilities used solely for healing by prayer or spiritual means.~~

~~No facility licensed under the Supportive Residences Licensing Act or the Assisted Living and Shared Housing Act shall be subject to the provisions of this Act.~~

~~No facility established and operating under the Alternative Health Care Delivery Act as a children's respite care center alternative health care model demonstration program or as an Alzheimer's Disease Management Center alternative health care model demonstration program shall be subject to the provisions of this Act.~~

~~A facility designated as a supportive living facility that is in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code shall not be subject to the provisions of this Act.~~

~~This Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing Home Care Act. However, if a demonstration project under that Act applies for a certificate of need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in effect as of the date of application.~~

~~This Act does not apply to a dialysis facility that provides only dialysis training, support, and related services to individuals with end stage renal disease who have elected to receive home dialysis. This Act does not apply to a dialysis unit located in a licensed nursing home that offers or provides dialysis-related services to residents with end stage renal disease who have elected to receive home dialysis within the~~

~~nursing home. The Board, however, may require these dialysis facilities and licensed nursing homes to report statistical information on a quarterly basis to the Board to be used by the Board to conduct analyses on the need for proposed kidney disease treatment centers.~~

~~This Act shall not apply to the closure of an entity or a portion of an entity licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the ID/DD Community Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes, that elects to convert, in whole or in part, to an assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act.~~

~~This Act does not apply to any change of ownership of a healthcare facility that is licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the ID/DD Community Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes. Changes of ownership of facilities licensed under the Nursing Home Care Act must meet the requirements set forth in Sections 3-101 through 3-119 of the Nursing Home Care Act.~~

With the exception of those health care facilities specifically included in this Section, nothing in this Act shall be intended to include facilities operated as a part of the practice of a physician or other licensed health care professional, whether practicing in his individual capacity or

within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional group. Further, this Act shall not apply to physicians or other licensed health care professional's practices where such practices are carried out in a portion of a health care facility under contract with such health care facility by a physician or by other licensed health care professionals, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional groups, unless the entity constructs, modifies, or establishes a health care facility as specifically defined in this Section. This Act shall apply to construction or modification and to establishment by such health care facility of such contracted portion which is subject to facility licensing requirements, irrespective of the party responsible for such action or attendant financial obligation.

~~No permit or exemption is required for a facility licensed under the ID/DD Community Care Act prior to the reduction of the number of beds at a facility. If there is a total reduction of beds at a facility licensed under the ID/DD Community Care Act, this is a discontinuation or closure of the facility. However, if a facility licensed under the ID/DD Community Care Act reduces the number of beds or discontinues the facility, that facility must notify the Board as provided in Section 14.1 of this Act.~~

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof.

"Consumer" means any person other than a person (a) whose major occupation currently involves or whose official capacity within the last 12 months has involved the providing, administering or financing of any type of health care facility, (b) who is engaged in health research or the teaching of health, (c) who has a material financial interest in any activity which involves the providing, administering or financing of any type of health care facility, or (d) who is or ever has been a member of the immediate family of the person defined by (a), (b), or (c).

"State Board" or "Board" means the Health Facilities and Services Review Board.

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership, of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for (i) the construction or modification of a facility licensed under the

Assisted Living and Shared Housing Act or (ii) a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under this Act.

"Establish" means the construction of a health care facility or the replacement of an existing facility on another site or the initiation of a category of service.

"Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

"Capital Expenditure" means an expenditure: (A) made by or on behalf of a health care facility (as such a facility is defined in this Act); and (B) which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or

comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum.

For the purpose of this paragraph, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditures minimum. Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under this Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of this Act if a transfer of the equipment or facilities at fair market value would be subject to review.

"Capital expenditure minimum" means \$11,500,000 for projects by hospital applicants, \$6,500,000 for applicants for projects related to skilled and intermediate care long-term care facilities licensed under the Nursing Home Care Act, and

\$3,000,000 for projects by all other applicants, which shall be annually adjusted to reflect the increase in construction costs due to inflation, for major medical equipment and for all other capital expenditures.

"Non-clinical service area" means an area (i) for the benefit of the patients, visitors, staff, or employees of a health care facility and (ii) not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers.

"Areawide" means a major area of the State delineated on a geographic, demographic, and functional basis for health planning and for health service and having within it one or

more local areas for health planning and health service. The term "region", as contrasted with the term "subregion", and the word "area" may be used synonymously with the term "areawide".

"Local" means a subarea of a delineated major area that on a geographic, demographic, and functional basis may be considered to be part of such major area. The term "subregion" may be used synonymously with the term "local".

"Physician" means a person licensed to practice in accordance with the Medical Practice Act of 1987, as amended.

"Licensed health care professional" means a person licensed to practice a health profession under pertinent licensing statutes of the State of Illinois.

"Director" means the Director of the Illinois Department of Public Health.

"Agency" means the Illinois Department of Public Health.

"Alternative health care model" means a facility or program authorized under the Alternative Health Care Delivery Act.

"Out-of-state facility" means a person that is both (i) licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and (ii) not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care

facilities 100% owned by an Illinois licensed health care facility, its parent, or Illinois physicians licensed to practice medicine in all its branches shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.

"Change of ownership of a health care facility" means a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change in ownership is indicated by the following transactions: sale, transfer, acquisition, lease, change of sponsorship, or other means of transferring control.

"Related person" means any person that: (i) is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility; or (ii) owns, directly or indirectly, at least 50% of the health care facility.

"Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer.

"Freestanding emergency center" means a facility subject to licensure under Section 32.5 of the Emergency Medical Services (EMS) Systems Act.

"Category of service" means a grouping by generic class of

various types or levels of support functions, equipment, care, or treatment provided to patients or residents, including, but not limited to, classes such as medical-surgical, pediatrics, or cardiac catheterization. A category of service may include subcategories or levels of care that identify a particular degree or type of care within the category of service. Nothing in this definition shall be construed to include the practice of a physician or other licensed health care professional while functioning in an office providing for the care, diagnosis, or treatment of patients. A category of service that is subject to the Board's jurisdiction must be designated in rules adopted by the Board.

"State Board Staff Report" means the document that sets forth the review and findings of the State Board staff, as prescribed by the State Board, regarding applications subject to Board jurisdiction.

(Source: P.A. 97-38, eff. 6-28-11; 97-277, eff. 1-1-12; 97-813, eff. 7-13-12; 97-980, eff. 8-17-12; 98-414, eff. 1-1-14.)

(20 ILCS 3960/5.3)

(Section scheduled to be repealed on December 31, 2019)

Sec. 5.3. Annual report of capital expenditures. In addition to the State Board's authority to require reports, the State Board shall require each health care facility to submit an annual report of all capital expenditures in excess of \$200,000 (which shall be annually adjusted to reflect the

increase in construction costs due to inflation) made by the health care facility during the most recent year. This annual report shall consist of a brief description of the capital expenditure, the amount and method of financing the capital expenditure, the certificate of need project number if the project was reviewed, and the total amount of capital expenditures obligated for the year. Data collected from health care facilities pursuant to this Section shall not duplicate or overlap other data collected by the Department and must be collected as part of the State Board's ~~Department's~~ Annual Questionnaires or supplements for health care facilities that report these data.

(Source: P.A. 93-41, eff. 6-27-03.)

(20 ILCS 3960/5.4)

(Section scheduled to be repealed on December 31, 2019)

Sec. 5.4. Safety Net Impact Statement.

(a) General review criteria shall include a requirement that all health care facilities, with the exception of skilled and intermediate long-term care facilities licensed under the Nursing Home Care Act, provide a Safety Net Impact Statement, which shall be filed with an application for a substantive project or when the application proposes to discontinue a category of service.

(b) For the purposes of this Section, "safety net services" are services provided by health care providers or organizations

that deliver health care services to persons with barriers to mainstream health care due to lack of insurance, inability to pay, special needs, ethnic or cultural characteristics, or geographic isolation. Safety net service providers include, but are not limited to, hospitals and private practice physicians that provide charity care, school-based health centers, migrant health clinics, rural health clinics, federally qualified health centers, community health centers, public health departments, and community mental health centers.

(c) As developed by the applicant, a Safety Net Impact Statement shall describe all of the following:

(1) The project's material impact, if any, on essential safety net services in the community, to the extent that it is feasible for an applicant to have such knowledge.

(2) The project's impact on the ability of another provider or health care system to cross-subsidize safety net services, if reasonably known to the applicant.

(3) How the discontinuation of a facility or service might impact the remaining safety net providers in a given community, if reasonably known by the applicant.

(d) Safety Net Impact Statements shall also include all of the following:

(1) For the 3 fiscal years prior to the application, a certification describing the amount of charity care provided by the applicant. The amount calculated by

hospital applicants shall be in accordance with the reporting requirements for charity care reporting in the Illinois Community Benefits Act. Non-hospital applicants shall report charity care, at cost, in accordance with an appropriate methodology specified by the Board.

(2) For the 3 fiscal years prior to the application, a certification of the amount of care provided to Medicaid patients. Hospital and non-hospital applicants shall provide Medicaid information in a manner consistent with the information reported each year to the State Board ~~Illinois Department of Public Health~~ regarding "Inpatients and Outpatients Served by Payor Source" and "Inpatient and Outpatient Net Revenue by Payor Source" as required by the Board under Section 13 of this Act and published in the Annual Hospital Profile.

(3) Any information the applicant believes is directly relevant to safety net services, including information regarding teaching, research, and any other service.

(e) The Board staff shall publish a notice, that an application accompanied by a Safety Net Impact Statement has been filed, in a newspaper having general circulation within the area affected by the application. If no newspaper has a general circulation within the county, the Board shall post the notice in 5 conspicuous places within the proposed area.

(f) Any person, community organization, provider, or health system or other entity wishing to comment upon or oppose

the application may file a Safety Net Impact Statement Response with the Board, which shall provide additional information concerning a project's impact on safety net services in the community.

(g) Applicants shall be provided an opportunity to submit a reply to any Safety Net Impact Statement Response.

(h) The Board staff report shall include a statement as to whether a Safety Net Impact Statement was filed by the applicant and whether it included information on charity care, the amount of care provided to Medicaid patients, and information on teaching, research, or any other service provided by the applicant directly relevant to safety net services. The report shall also indicate the names of the parties submitting responses and the number of responses and replies, if any, that were filed.

(Source: P.A. 96-31, eff. 6-30-09.)

(20 ILCS 3960/6.2)

(Section scheduled to be repealed on December 31, 2019)

Sec. 6.2. Review of permits; State Board Staff Reports.
Upon receipt of an application for a permit to establish, construct, or modify a health care facility, the State Board staff shall notify the applicant in writing within 10 working days either that the application is or is not complete. If the application is complete, the State Board staff shall notify the applicant of the beginning of the review process. If the

application is not complete, the Board staff shall explain within the 10-day period why the application is incomplete.

The State Board staff shall afford a reasonable amount of time as established by the State Board, but not to exceed 120 days, for the review of the application. The 120-day period begins on the day the application is found to be substantially complete, as that term is defined by the State Board. During the 120-day period, the applicant may request an extension. An applicant may modify the application at any time before a final administrative decision has been made on the application.

The State Board shall prescribe and provide the forms upon which the ~~review and findings of the~~ State Board Staff Report ~~staff~~ shall be made. The State Board staff shall submit its State Board Staff Report ~~review and findings~~ to the State Board for its decision-making regarding approval or denial of the permit.

When an application for a permit is initially reviewed by State Board staff, as provided in this Section, the State Board shall, upon request by the applicant or an interested person, afford an opportunity for a public hearing within a reasonable amount of time after receipt of the complete application, but not to exceed 90 days after receipt of the complete application. Notice of the hearing shall be made promptly, not less than 10 days before the hearing, by certified mail to the applicant and, not less than 10 days before the hearing, by publication in a newspaper of general circulation in the area

or community to be affected. The hearing shall be held in the area or community in which the proposed project is to be located and shall be for the purpose of allowing the applicant and any interested person to present public testimony concerning the approval, denial, renewal, or revocation of the permit. All interested persons attending the hearing shall be given a reasonable opportunity to present their views or arguments in writing or orally, and a record of all of the testimony shall accompany any findings of the State Board staff. The State Board shall adopt reasonable rules and regulations governing the procedure and conduct of the hearings.

(Source: P.A. 97-1115, eff. 8-27-12.)

(20 ILCS 3960/8.5)

(Section scheduled to be repealed on December 31, 2019)

Sec. 8.5. Certificate of exemption for change of ownership of a health care facility; public notice and public hearing.

(a) Upon a finding ~~by the Department of Public Health~~ that an application for a change of ownership is complete, the State Board ~~Department of Public Health~~ shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of

limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on the Health Facilities and Services Review Board's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. ~~An~~ ~~The Department of Public Health shall not find that an~~ application for change of ownership of a hospital shall not be deemed ~~is~~ complete without a signed certification that for a period of 2 years after the change of ownership transaction is effective, the hospital will not adopt a charity care policy that is more restrictive than the policy in effect during the year prior to the transaction.

For the purposes of this subsection, "newspaper of limited circulation" means a newspaper intended to serve a particular or defined population of a specific geographic area within a Metropolitan Statistical Area such as a municipality, town, village, township, or community area, but does not include publications of professional and trade associations.

(b) If a public hearing is requested, it shall be held at least 15 days but no more than 30 days after the date of publication of the legal notice in the community in which the facility is located. The hearing shall be held in a place of reasonable size and accessibility and a full and complete written transcript of the proceedings shall be made. The

applicant shall provide a summary of the proposed change of ownership for distribution at the public hearing.

(Source: P.A. 96-31, eff. 6-30-09.)

(20 ILCS 3960/10) (from Ch. 111 1/2, par. 1160)

(Section scheduled to be repealed on December 31, 2019)

Sec. 10. Presenting information relevant to the approval of a permit or certificate or in opposition to the denial of the application; notice of outcome and review proceedings. When a motion by the State Board, to approve an application for a permit or a certificate of recognition, fails to pass, or when a motion to deny an application for a permit or a certificate of recognition is passed, the applicant or the holder of the permit, as the case may be, and such other parties as the State Board permits, will be given an opportunity to appear before the State Board and present such information as may be relevant to the approval of a permit or certificate or in opposition to the denial of the application.

Subsequent to an appearance by the applicant before the State Board or default of such opportunity to appear, a motion by the State Board to approve an application for a permit or a certificate of recognition which fails to pass or a motion to deny an application for a permit or a certificate of recognition which passes shall be considered denial of the application for a permit or certificate of recognition, as the case may be. Such action of denial or an action by the State

Board to revoke a permit or a certificate of recognition shall be communicated to the applicant or holder of the permit or certificate of recognition. Such person or organization shall be afforded an opportunity for a hearing before an administrative law judge, who is appointed by the Chairman of the State Board. A written notice of a request for such hearing shall be served upon the Chairman of the State Board within 30 days following notification of the decision of the State Board. The administrative law judge shall take actions necessary to ensure that the hearing is completed within a reasonable period of time, but not to exceed 120 days, except for delays or continuances agreed to by the person requesting the hearing. Following its consideration of the report of the hearing, or upon default of the party to the hearing, the State Board shall make its final determination, specifying its findings and conclusions within 90 days of receiving the written report of the hearing. A copy of such determination shall be sent by certified mail or served personally upon the party.

A full and complete record shall be kept of all proceedings, including the notice of hearing, complaint, and all other documents in the nature of pleadings, written motions filed in the proceedings, and the report and orders of the State Board or hearing officer. All testimony shall be reported but need not be transcribed unless the decision is appealed in accordance with the Administrative Review Law, as now or hereafter amended. A copy or copies of the transcript may be

obtained by any interested party on payment of the cost of preparing such copy or copies.

The State Board or hearing officer shall upon its own or his motion, or on the written request of any party to the proceeding who has, in the State Board's or hearing officer's opinion, demonstrated the relevancy of such request to the outcome of the proceedings, issue subpoenas requiring the attendance and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records, or memoranda. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit court of this State.

When the witness is subpoenaed at the instance of the State Board, or its hearing officer, such fees shall be paid in the same manner as other expenses of the Board Agency, and when the witness is subpoenaed at the instance of any other party to any such proceeding the State Board may, in accordance with its ~~the~~ rules ~~of the Agency~~, require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the State Board in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum so issued shall be served in the same manner as a subpoena issued out of a court.

Any circuit court of this State upon the application of the State Board or upon the application of any other party to the

proceeding, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records, or memoranda and the giving of testimony before it or its hearing officer conducting an investigation or holding a hearing authorized by this Act, by an attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

(Source: P.A. 97-1115, eff. 8-27-12.)

(20 ILCS 3960/11) (from Ch. 111 1/2, par. 1161)

(Section scheduled to be repealed on December 31, 2019)

Sec. 11. Any person who is adversely affected by a final decision of the State Board may have such decision judicially reviewed. The provisions of the Administrative Review Law, as now or hereafter amended, and the rules adopted pursuant thereto shall apply to and govern all proceedings for the judicial review of final administrative decisions of the State Board. The term "administrative decisions" is as defined in Section 3-101 of the Code of Civil Procedure. In order to comply with subsection (b) of Section 3-108 of the Administrative Review Law of the Code of Civil Procedure, the State Board shall transcribe each State Board meeting using a certified court reporter. The transcript shall contain the record of the findings and decisions of the State Board.

(Source: P.A. 82-1057.)

(20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

(Section scheduled to be repealed on December 31, 2019)

Sec. 12. Powers and duties of State Board. For purposes of this Act, the State Board shall exercise the following powers and duties:

(1) Prescribe rules, regulations, standards, criteria, procedures or reviews which may vary according to the purpose for which a particular review is being conducted or the type of project reviewed and which are required to carry out the provisions and purposes of this Act. Policies and procedures of the State Board shall take into consideration the priorities and needs of medically underserved areas and other health care services identified through the comprehensive health planning process, giving special consideration to the impact of projects on access to safety net services.

(2) Adopt procedures for public notice and hearing on all proposed rules, regulations, standards, criteria, and plans required to carry out the provisions of this Act.

(3) (Blank).

(4) Develop criteria and standards for health care facilities planning, conduct statewide inventories of health care facilities, maintain an updated inventory on the Board's web site reflecting the most recent bed and service changes and updated need determinations when new census data become available or new need formulae are adopted, and develop health care facility plans which shall be utilized in the review of

applications for permit under this Act. Such health facility plans shall be coordinated by the Board with pertinent State Plans. Inventories pursuant to this Section of skilled or intermediate care facilities licensed under the Nursing Home Care Act, skilled or intermediate care facilities licensed under the ID/DD Community Care Act, facilities licensed under the Specialized Mental Health Rehabilitation Act, or nursing homes licensed under the Hospital Licensing Act shall be conducted on an annual basis no later than July 1 of each year and shall include among the information requested a list of all services provided by a facility to its residents and to the community at large and differentiate between active and inactive beds.

In developing health care facility plans, the State Board shall consider, but shall not be limited to, the following:

- (a) The size, composition and growth of the population of the area to be served;
- (b) The number of existing and planned facilities offering similar programs;
- (c) The extent of utilization of existing facilities;
- (d) The availability of facilities which may serve as alternatives or substitutes;
- (e) The availability of personnel necessary to the operation of the facility;
- (f) Multi-institutional planning and the establishment of multi-institutional systems where feasible;

(g) The financial and economic feasibility of proposed construction or modification; and

(h) In the case of health care facilities established by a religious body or denomination, the needs of the members of such religious body or denomination may be considered to be public need.

The health care facility plans which are developed and adopted in accordance with this Section shall form the basis for the plan of the State to deal most effectively with statewide health needs in regard to health care facilities.

(5) Coordinate with the Center for Comprehensive Health Planning and other state agencies having responsibilities affecting health care facilities, including those of licensure and cost reporting. Beginning no later than January 1, 2013, the Department of Public Health shall produce a written annual report to the Governor and the General Assembly regarding the development of the Center for Comprehensive Health Planning. The Chairman of the State Board and the State Board Administrator shall also receive a copy of the annual report.

(6) Solicit, accept, hold and administer on behalf of the State any grants or bequests of money, securities or property for use by the State Board or Center for Comprehensive Health Planning in the administration of this Act; and enter into contracts consistent with the appropriations for purposes enumerated in this Act.

(7) The State Board shall prescribe procedures for review,

standards, and criteria which shall be utilized to make periodic reviews and determinations of the appropriateness of any existing health services being rendered by health care facilities subject to the Act. The State Board shall consider recommendations of the Board in making its determinations.

(8) Prescribe, in consultation with the Center for Comprehensive Health Planning, rules, regulations, standards, and criteria for the conduct of an expeditious review of applications for permits for projects of construction or modification of a health care facility, which projects are classified as emergency, substantive, or non-substantive in nature.

Six months after June 30, 2009 (the effective date of Public Act 96-31), substantive projects shall include no more than the following:

(a) Projects to construct (1) a new or replacement facility located on a new site or (2) a replacement facility located on the same site as the original facility and the cost of the replacement facility exceeds the capital expenditure minimum, which shall be reviewed by the Board within 120 days;

(b) Projects proposing a (1) new service within an existing healthcare facility or (2) discontinuation of a service within an existing healthcare facility, which shall be reviewed by the Board within 60 days; or

(c) Projects proposing a change in the bed capacity of

a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one physical facility or site to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board, whichever is less, over a 2-year period.

The Chairman may approve applications for exemption that meet the criteria set forth in rules or refer them to the full Board. The Chairman may approve any unopposed application that meets all of the review criteria or refer them to the full Board.

Such rules shall not abridge the right of the Center for Comprehensive Health Planning to make recommendations on the classification and approval of projects, nor shall such rules prevent the conduct of a public hearing upon the timely request of an interested party. Such reviews shall not exceed 60 days from the date the application is declared to be complete.

(9) Prescribe rules, regulations, standards, and criteria pertaining to the granting of permits for construction and modifications which are emergent in nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined in the rules and regulations of the State Board. This procedure is exempt from public hearing requirements of this Act.

(10) Prescribe rules, regulations, standards and criteria

for the conduct of an expeditious review, not exceeding 60 days, of applications for permits for projects to construct or modify health care facilities which are needed for the care and treatment of persons who have acquired immunodeficiency syndrome (AIDS) or related conditions.

(11) Issue written decisions upon request of the applicant or an adversely affected party to the Board. Requests for a written decision shall be made within 15 days after the Board meeting in which a final decision has been made. A "final decision" for purposes of this Act is the decision to approve or deny an application, or take other actions permitted under this Act, at the time and date of the meeting that such action is scheduled by the Board. State Board members shall provide their rationale when voting on an item before the State Board at a State Board meeting in order to comply with subsection (b) of Section 3-108 of the Administrative Review Law of the Code of Civil Procedure. The transcript of the State Board meeting shall be incorporated into the Board's final decision. The staff of the Board shall prepare a written copy of the final decision and the Board shall approve a final copy for inclusion in the formal record. The Board shall consider, for approval, the written draft of the final decision no later than the next scheduled Board meeting. The written decision shall identify the applicable criteria and factors listed in this Act and the Board's regulations that were taken into consideration by the Board when coming to a final decision. If the Board denies or

fails to approve an application for permit or exemption, the Board shall include in the final decision a detailed explanation as to why the application was denied and identify what specific criteria or standards the applicant did not fulfill.

(12) Require at least one of its members to participate in any public hearing, after the appointment of a majority of the members to the Board.

(13) Provide a mechanism for the public to comment on, and request changes to, draft rules and standards.

(14) Implement public information campaigns to regularly inform the general public about the opportunity for public hearings and public hearing procedures.

(15) Establish a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities. An open and transparent process shall be developed that considers the following: how skilled nursing fits in the continuum of care with other care providers, modernization of nursing homes, establishment of more private rooms, development of alternative services, and current trends in long-term care services. The Chairman of the Board shall appoint a permanent Health Services Review Board Long-term Care Facility Advisory Subcommittee that shall develop and recommend to the Board the rules to be established by the Board under this paragraph (15). The Subcommittee shall also provide

continuous review and commentary on policies and procedures relative to long-term care and the review of related projects. In consultation with other experts from the health field of long-term care, the Board and the Subcommittee shall study new approaches to the current bed need formula and Health Service Area boundaries to encourage flexibility and innovation in design models reflective of the changing long-term care marketplace and consumer preferences. The Subcommittee shall evaluate, and make recommendations to the State Board regarding, the buying, selling, and exchange of beds between long-term care facilities within a specified geographic area or drive time. The Board shall file the proposed related administrative rules for the separate rules and guidelines for long-term care required by this paragraph (15) by no later than September 30, 2011. The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of this Act.

(16) Prescribe and provide forms pertaining to the State Board Staff Report. A State Board Staff Report shall pertain to applications that include, but are not limited to, applications for permit or exemption, applications for permit renewal, applications for extension of the obligation period, applications requesting a declaratory ruling, or applications under the Health Care Worker Self Referral Act. State Board

Staff Reports shall compare applications to the relevant review criteria under the Board's rules.

(Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813, eff. 7-13-12; 97-1045, eff. 8-21-13; 97-1115, eff. 8-27-12; 98-414, eff. 1-1-14; 98-463, eff. 8-16-13.)

(20 ILCS 3960/12.2)

(Section scheduled to be repealed on December 31, 2019)

Sec. 12.2. Powers of the State Board staff. For purposes of this Act, the staff shall exercise the following powers and duties:

(1) Review applications for permits and exemptions in accordance with the standards, criteria, and plans of need established by the State Board under this Act and certify its finding to the State Board.

(1.5) Post the following on the Board's web site: relevant (i) rules, (ii) standards, (iii) criteria, (iv) State norms, (v) references used by Board ~~Agency~~ staff in making determinations about whether application criteria are met, and (vi) notices of project-related filings, including notice of public comments related to the application.

(2) Charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. The State Board shall set the amounts by rule. Application fees for continuing care retirement communities, and other health care models that

include regulated and unregulated components, shall apply only to those components subject to regulation under this Act. All fees and fines collected under the provisions of this Act shall be deposited into the Illinois Health Facilities Planning Fund to be used for the expenses of administering this Act.

(2.1) Publish the following reports on the State Board website:

(A) An annual accounting, aggregated by category and with names of parties redacted, of fees, fines, and other revenue collected as well as expenses incurred, in the administration of this Act.

(B) An annual report, with names of the parties redacted, that summarizes all settlement agreements entered into with the State Board that resolve an alleged instance of noncompliance with State Board requirements under this Act.

(C) A monthly report that includes the status of applications and recommendations regarding updates to the standard, criteria, or the health plan as appropriate.

(D) Board reports showing the degree to which an application conforms to the review standards, a summation of relevant public testimony, and any additional information that staff wants to communicate.

(3) Coordinate with other State agencies having responsibilities affecting health care facilities, including the Center for Comprehensive Health Planning and those of

licensure and cost reporting.

(Source: P.A. 96-31, eff. 6-30-09.)

(20 ILCS 3960/12.5)

(Section scheduled to be repealed on December 31, 2019)

Sec. 12.5. Update existing bed inventory and associated bed need projections. While the Task Force on Health Planning Reform will make long-term recommendations related to the method and formula for calculating the bed inventory and associated bed need projections, there is a current need for the bed inventory to be updated prior to the issuance of the recommendations of the Task Force. Therefore, the State Board ~~Agency~~ shall immediately update the existing bed inventory and associated bed need projections required by Sections 12 and 12.3 of this Act, using the most recently published historical utilization data, 5-year population projections, and an appropriate migration factor for the medical-surgical and pediatric category of service which shall be no less than 50%. The State Board ~~Agency~~ shall provide written documentation providing the methodology and rationale used to determine the appropriate migration factor.

(Source: P.A. 97-1115, eff. 8-27-12.)

(20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

(Section scheduled to be repealed on December 31, 2019)

Sec. 13. Investigation of applications for permits and

certificates of recognition. The ~~Agency or the~~ State Board shall make or cause to be made such investigations as it ~~or the State Board~~ deems necessary in connection with an application for a permit or an application for a certificate of recognition, or in connection with a determination of whether or not construction or modification which has been commenced is in accord with the permit issued by the State Board or whether construction or modification has been commenced without a permit having been obtained. The State Board may issue subpoenas duces tecum requiring the production of records and may administer oaths to such witnesses.

Any circuit court of this State, upon the application of the State Board or upon the application of any party to such proceedings, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records, or memoranda and the giving of testimony before the State Board, by a proceeding as for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

The State Board shall require all health facilities operating in this State to provide such reasonable reports at such times and containing such information as is needed by it to carry out the purposes and provisions of this Act. Prior to collecting information from health facilities, the State Board shall make reasonable efforts through a public process to consult with health facilities and associations that represent

them to determine whether data and information requests will result in useful information for health planning, whether sufficient information is available from other sources, and whether data requested is routinely collected by health facilities and is available without retrospective record review. Data and information requests shall not impose undue paperwork burdens on health care facilities and personnel. Health facilities not complying with this requirement shall be reported to licensing, accrediting, certifying, or payment agencies as being in violation of State law. Health care facilities and other parties at interest shall have reasonable access, under rules established by the State Board, to all planning information submitted in accord with this Act pertaining to their area.

Among the reports to be required by the State Board are facility questionnaires for health care facilities licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD Community Care Act, the Specialized Mental Health Rehabilitation Act, or the End Stage Renal Disease Facility Act. These questionnaires shall be conducted on an annual basis and compiled by the State Board ~~Agency~~. For health care facilities licensed under the Nursing Home Care Act or the Specialized Mental Health Rehabilitation Act, these reports shall include, but not be limited to, the identification of specialty services provided by the facility to patients,

residents, and the community at large. Annual reports for facilities licensed under the ID/DD Community Care Act shall be different from the annual reports required of other health care facilities and shall be specific to those facilities licensed under the ID/DD Community Care Act. The Health Facilities and Services Review Board shall consult with associations representing facilities licensed under the ID/DD Community Care Act when developing the information requested in these annual reports. For health care facilities that contain long term care beds, the reports shall also include the number of staffed long term care beds, physical capacity for long term care beds at the facility, and long term care beds available for immediate occupancy. For purposes of this paragraph, "long term care beds" means beds (i) licensed under the Nursing Home Care Act, (ii) licensed under the ID/DD Community Care Act, (iii) licensed under the Hospital Licensing Act, or (iv) licensed under the Specialized Mental Health Rehabilitation Act and certified as skilled nursing or nursing facility beds under Medicaid or Medicare.

(Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813, eff. 7-13-12; 97-980, eff. 8-17-12.)

(20 ILCS 3960/15) (from Ch. 111 1/2, par. 1165)

(Section scheduled to be repealed on December 31, 2019)

Sec. 15. Notwithstanding the existence or pursuit of any other remedy, the State Board ~~or the Agency~~ may, in the manner

provided by law, upon the advice of the Attorney General who shall represent the State Board ~~or the Agency~~ in the proceedings, maintain an action in the name of the State for injunction or other process against any person or governmental unit to restrain or prevent the acquisition of major medical equipment, or the establishment, construction or modification of a health care facility without the required permit, or to restrain or prevent the occupancy or utilization of the equipment acquired or facility which was constructed or modified without the required permit.

(Source: P.A. 89-276, eff. 8-10-95.)

Section 99. Effective date. This Act takes effect upon becoming law.

INDEX

Statutes amended in order of appearance

20 ILCS 3960/3	from Ch. 111 1/2, par. 1153
20 ILCS 3960/5.3	
20 ILCS 3960/5.4	
20 ILCS 3960/6.2	
20 ILCS 3960/8.5	
20 ILCS 3960/10	from Ch. 111 1/2, par. 1160
20 ILCS 3960/11	from Ch. 111 1/2, par. 1161
20 ILCS 3960/12	from Ch. 111 1/2, par. 1162
20 ILCS 3960/12.2	
20 ILCS 3960/12.5	
20 ILCS 3960/13	from Ch. 111 1/2, par. 1163
20 ILCS 3960/15	from Ch. 111 1/2, par. 1165